

EXHIBIT R

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ALLERGAN USA, INC. and
16 ALLERGAN INDUSTRIE, SAS

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA

19 ALLERGAN USA, INC., and
20 ALLERGAN INDUSTRIE, SAS,

21 Plaintiffs,

22 v.

23 MEDICIS AESTHETICS, INC.,
MEDICIS PHARMACEUTICAL CORP.,
VALEANT PHARMACEUTICALS
24 NORTH AMERICA LLC,
VALEANT PHARMACEUTICALS
25 INTERNATIONAL, VALEANT
PHARMACEUTICALS
26 INTERNATIONAL, INC., AND
GALDERMA LABORATORIES, L.P.

27 Defendants.

28 Case No. SACV13-01436 AG (JPRx)

PLAINTIFFS' RESPONSES AND
OBJECTIONS TO DEFENDANTS'
FIRST SET OF REQUESTS FOR
ADMISSION TO PLAINTIFFS
ALLERGAN USA, INC. AND
ALLERGAN INUDSTRIE, SAS
(NUMBERS 1-11)

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1 Pursuant to Rules 36 of the Federal Rules of Civil Procedure and the Local
2 Rules of the United States District Court for the Central District of California,
3 Plaintiffs Allergan USA, Inc., and Allergan Industrie, SAS's ("Allergan" or
4 "Plaintiffs"), hereby respond and object to the First Set of Requests for Admission
5 (Numbers 1-11) ("Requests") propounded by Defendants Medicis Aesthetics, Inc.,
6 Medicis Pharmaceutical Corp., Valeant Pharmaceuticals North America LLC,
7 Valeant Pharmaceuticals International, Valeant Pharmaceuticals International, Inc.,
8 and Galderma Laboratories, L.P. ("Defendants") as follows:

9 **RESERVATION OF RIGHTS**

10 Discovery is ongoing in this case. Allergan reserves its right to modify and/or
11 supplement its responses as additional information is obtained. Allergan reserves
12 the right to produce or use any information or documents that are discovered after
13 service of these responses in support of or in opposition to any motion, in
14 depositions, or at trial. Allergan also reserves the right to object to the use of these
15 responses or the subject matter contained in them during any subsequent proceeding,
16 including the trial of this or any other case. Allergan does not waive any objections
17 on the grounds of privilege, relevance, authenticity, or admissibility.

18 **GENERAL OBJECTIONS**

19 1. Allergan objects to these Requests, including the Definitions and
20 Instructions, to the extent they seek to impose obligations in addition to or different
21 from those embodied in Rule 36 of the Federal Rules of Civil Procedure, the Local
22 Rules of the United States District Court for the Central District of California, Judge
23 Guilford's Standing Patent Rules, and any applicable Court Order. In responding to
24 the Requests, Allergan will comply with the obligations imposed by the Federal
25 Rules of Civil Procedure, the Local Rules of the United States District Court for the
26 Central District of California, and any other applicable rule or court order.

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1 2. Allergan objects to each Request to the extent it seeks information
2 protected from disclosure by the attorney-client privilege, the attorney work product
3 doctrine, and/or any other applicable privilege or immunity.

4 3. Allergan objects to these Requests to the extent they are overbroad,
5 vague, ambiguous, unduly burdensome, duplicative, cumulative, unintelligible, or
6 otherwise unclear as to the information sought. *James v. Maguire Correctional*
7 *Facility*, 2012 WL 3939343, *4 (N.D. Cal. 2012) (“Because admissions are
8 designed to limit factual issues in a case, the requesting party bears the burden of
9 setting forth its requests simply, directly, not vaguely or ambiguously, and in such a
10 manner that they can be answered with a simple admit or deny without an
11 explanation, and in certain instances, permit a qualification or explanation for
12 purposes of clarification. To facilitate clear and succinct responses, the facts stated
13 in the request must be singularly, specifically, and carefully detailed.”).

14 4. Allergan objects to each Request to the extent it seeks information that
15 is not relevant to any claim or defense, or not reasonably calculated to lead to the
16 discovery of admissible evidence. In particular, Allergan objects to each Request to
17 the extent that it relates to products that are not at issue in this lawsuit.

18 5. Allergan objects to these Requests to the extent they call for a legal
19 opinion or conclusion. Allergan’s responses should not be construed as admissions
20 of any particular legal characterization made by these Requests.

21 6. Allergan object to each Request to the extent it is premature, including,
22 without limitation, requests for Allergan’s legal contentions.

23 7. Allergan objects to these Requests to the extent they seek admissions
24 regarding information that may be found in documents that have been produced by
25 Allergan and/or Defendants in connection with this case.

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8. Allergan objects to each Request to the extent it seeks information that is a matter of public record or that is otherwise equally available to or already in the possession of Defendants.

9. Allergan objects to each Request to the extent it calls for information not within Allergan's possession, custody, or control.

10. Allergan objects to each Request to the extent it seeks admissions for expert discovery prior to the time for completion of such discovery set forth in the Scheduling Order in this case.

11. Any failure to repeat all or any part of the general objections in any specific response shall not constitute a waiver or relinquishment of such objection.

12. Allergan expressly reserves each of these general objections. No response shall be deemed, and specifically is stated not to be, a waiver of these objections, which are applicable irrespective of whether specifically referred to in any specific response.

RESPONSES TO REQUESTS FOR ADMISSION

Subject to the foregoing General Objections and Reservation of Rights, as well as the Specific Objections set forth below, Allergan responds to Defendants' First Set of Requests for Admission as follows:

REQUEST FOR ADMISSION NO. 1:

Admit that physicians in the United States added lidocaine to Perlane® immediately before use prior to August 4, 2007.

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Allergan incorporates by reference each general objection set forth above. Allergan objects to this Request as vague, ambiguous, and/or overbroad with respect to the phrases “physicians,” “added lidocaine to Perlane®” and “immediately before use.” Subject to and without waiving the foregoing objections, Allergan answers as follows: Allergan has no knowledge of any physician in the United States adding

1 lidocaine to Perlane® immediately before use prior to August 4, 2007, and therefore
2 denies the Request.

3 **REQUEST FOR ADMISSION NO. 2:**

4 Admit that physicians in the United States added lidocaine to Restylane®
5 immediately before use prior to August 4, 2007.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

7 Allergan incorporates by reference each general objection set forth above.
8 Allergan objects to this Request as vague, ambiguous, and/or overbroad with respect
9 to the phrases “physicians,” “added lidocaine to Restylane®” and “immediately
10 before use.” Subject to and without waiving the foregoing objections, Allergan
11 answers as follows: Allergan has no knowledge of any physician in the United
12 States adding lidocaine to Restylane® immediately before use prior to August 4,
13 2007, and therefore denies the Request.

14 **REQUEST FOR ADMISSION NO. 3:**

15 Admit that physicians in the United States added lidocaine to the Juvederm®
16 products immediately before use prior to August 4, 2007.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

18 Allergan incorporates by reference each general objection set forth above.
19 Allergan objects to this Request as vague, ambiguous, and/or overbroad with respect
20 to the phrases “physicians,” “added lidocaine,” “the Juvederm® products” and
21 “immediately before use.” Subject to and without waiving the foregoing objections,
22 Allergan answers as follows: Allergan has no knowledge of any physician in the
23 United States adding lidocaine to the Juvederm® products immediately before use
24 prior to August 4, 2007, and therefore denies the Request.

25 **REQUEST FOR ADMISSION NO. 4:**

26 Admit that physicians added lidocaine to Perlane® immediately before use
27 prior to 2005.

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1 RESPONSE TO REQUEST FOR ADMISSION NO. 4:

2 Allergan incorporates by reference each general objection set forth above.
3 Allergan objects to this Request as vague, ambiguous, and/or overbroad with respect
4 to the phrases “physicians,” “added lidocaine to Perlane®” and “immediately before
5 use.” Subject to and without waiving the foregoing objections, Allergan answers as
6 follows: Allergan has no knowledge of any physician adding lidocaine to Perlane®
7 immediately before use prior to 2005, and therefore denies the Request.

8 REQUEST FOR ADMISSION NO. 5:

9 Admit that physicians added lidocaine to Restylane® immediately before use
10 prior to 2005.

11 RESPONSE TO REQUEST FOR ADMISSION NO. 5:

12 Allergan incorporates by reference each general objection set forth above.
13 Allergan objects to this Request as vague, ambiguous, and/or overbroad with respect
14 to the phrases “physicians,” “added lidocaine to Restylane®” and “immediately
15 before use.” Subject to and without waiving the foregoing objections, Allergan has
16 no knowledge of any physician adding lidocaine to Restylane® immediately before
17 use prior to 2005, and therefore denies the Request.

18 REQUEST FOR ADMISSION NO. 6:

19 Admit that physicians added lidocaine to Juvederm® products immediately
20 before use prior to 2005.

21 RESPONSE TO REQUEST FOR ADMISSION NO. 6:

22 Allergan incorporates by reference each general objection set forth above.
23 Allergan objects to this Request as vague, ambiguous, and/or overbroad with respect
24 to the phrases “physicians,” “added lidocaine,” “Juvederm® products” and
25 “immediately before use.” Subject to and without waiving the foregoing objections,
26 Allergan has no knowledge of any physician adding lidocaine to the Juvederm®
27 products immediately before use prior to 2005, and therefore denies the Request.

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1 REQUEST FOR ADMISSION NO. 7:

2 Admit that a physician adding lidocaine to Perlane® immediately before use
3 would not infringe the Patents-in-Suit.

4 RESPONSE TO REQUEST FOR ADMISSION NO. 7:

5 Allergan incorporates by reference each general objection set forth above.
6 Allergan objects to this Request as vague, ambiguous, and/or overbroad with respect
7 to the phrases “adding lidocaine” and “immediately before use.” Allergan objects to
8 this Request as an ambiguous and an incomplete hypothetical. Allergan further
9 objects to this request as calling for expert testimony. Allergan further objects to
10 this Request as calling for a legal conclusion. *Apple Inc. v. Samsung Elec. Co., Ltd.*,
11 2012 WL 952254, at *4 (N.D. Cal. 2012); *see also Playboy Ent., Inc. v. Welles*, 60
12 F. Supp. 2d 1050, 1057 (S.D. Cal. 1999); *James v. Maguire Correctional Facility*,
13 2012 WL 3939343, at *4 (N.D. Cal. 2012) (unpublished); *Garcia v. Clark*, 2012
14 WL 1232315, at *11 (E.D. Cal. 2012) (unpublished).

15 Subject to the foregoing specific and general objections, Allergan responds as
16 follows: This Request improperly calls for a legal conclusion and is premised on an
17 incomplete hypothetical, and Allergan is therefore unable to respond to this Request.

18 REQUEST FOR ADMISSION NO. 8:

19 Admit that a physician adding lidocaine to Restylane® immediately before
20 use would not infringe the Patents-in-Suit.

21 RESPONSE TO REQUEST FOR ADMISSION NO. 8:

22 Allergan incorporates by reference each general objection set forth above.
23 Allergan objects to this Request as vague, ambiguous, and/or overbroad with respect
24 to the phrases “adding lidocaine” and “immediately before use.” Allergan objects to
25 this Request as an ambiguous and an incomplete hypothetical. Allergan further
26 objects to this request as calling for expert testimony. Allergan further objects to
27 this Request as calling for a legal conclusion. *Apple Inc. v. Samsung Elec. Co., Ltd.*,

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1 2012 WL 952254, at *4 (N.D. Cal. 2012); *see also Playboy Ent., Inc. v. Welles*, 60
2 F. Supp. 2d 1050, 1057 (S.D. Cal. 1999); *James v. Maguire Correctional Facility*,
3 2012 WL 3939343, at *4 (N.D. Cal. 2012) (unpublished); *Garcia v. Clark*, 2012
4 WL 1232315, at *11 (E.D. Cal. 2012).

5 Subject to the foregoing specific and general objections, Allergan responds as
6 follows: This Request improperly calls for a legal conclusion and is premised on an
7 incomplete hypothetical, and Allergan is therefore unable to respond to this Request.

8 **REQUEST FOR ADMISSION NO. 9:**

9 Admit that a physician adding lidocaine to Perlane® immediately before use
10 would be an acceptable non-infringing alternative to Perlane-L®.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

12 Allergan incorporates by reference each general objection set forth above.
13 Allergan objects to this Request as vague, ambiguous, and/or overbroad with respect
14 to the phrases “adding lidocaine” and “immediately before use.” Allergan objects to
15 this Request as an ambiguous, and an incomplete hypothetical. Allergan further
16 objects to this Request as calling for a legal conclusion. *Apple Inc. v. Samsung Elec.*
17 Co., Ltd., 2012 WL 952254, at *4 (N.D. Cal. 2012); *see also Playboy Ent., Inc. v.*
18 *Welles*, 60 F. Supp. 2d 1050, 1057 (S.D. Cal. 1999); *James v. Maguire Correctional*
19 *Facility*, 2012 WL 3939343, at *4 (N.D. Cal. 2012) (unpublished); *Garcia v. Clark*,
20 2012 WL 1232315, at *11 (E.D. Cal. 2012).

21 Subject to and without waiving the foregoing general and specific objections,
22 Allergan admits that a physician adding lidocaine to Perlane® immediately before
23 use would not be an acceptable alternative to Perlane-L®. Allergan objects to the
24 remainder of this Request.

25 **REQUEST FOR ADMISSION NO. 10:**

26 Admit that a physician adding lidocaine to Restylane® immediately before
27 use would be an acceptable non-infringing alternative to Restylane-L®.

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1 RESPONSE TO REQUEST FOR ADMISSION NO. 10:

2 Allergan incorporates by reference each general objection set forth above.
3 Allergan objects to this Request as vague, ambiguous, and/or overbroad with respect
4 to the phrases “adding lidocaine” and “immediately before use.” Allergan objects to
5 this Request as an ambiguous, and an incomplete hypothetical. Allergan further
6 objects to this Request as calling for a legal conclusion. *Apple Inc. v. Samsung Elec.*
7 *Co., Ltd.*, 2012 WL 952254, at *4 (N.D. Cal. 2012); *see also Playboy Ent., Inc. v.*
8 *Welles*, 60 F. Supp. 2d 1050, 1057 (S.D. Cal. 1999); *James v. Maguire Correctional*
9 *Facility*, 2012 WL 3939343, at *4 (N.D. Cal. 2012) (unpublished); *Garcia v. Clark*,
10 2012 WL 1232315, at *11 (E.D. Cal. 2012).

11 Subject to and without waiving the foregoing general and specific objections,
12 Allergan admits that a physician adding lidocaine to Perlane® immediately before
13 use would not be an acceptable alternative to Perlane-L®. Allergan objects to the
14 remainder of this Request.

15 REQUEST FOR ADMISSION NO. 11:

16 Admit that a physician adding lidocaine to Restylane® or Perlane®
17 immediately before use would not be practicing one or more of the claims in the
18 Patents-in-Suit.

19 RESPONSE TO REQUEST FOR ADMISSION NO. 11:

20 Allergan incorporates by reference each general objection set forth above.
21 Allergan objects to this Request as vague, ambiguous, and/or overbroad with respect
22 to the phrases “adding lidocaine” and “immediately before use.” Allergan objects to
23 this Request as an ambiguous and an incomplete hypothetical. Allergan further
24 objects to this request as calling for expert testimony. Allergan further objects to
25 this Request as calling for a legal conclusion. *Apple Inc. v. Samsung Elec. Co., Ltd.*,
26 2012 WL 952254, at *4 (N.D. Cal. 2012); *see also Playboy Ent., Inc. v. Welles*, 60
27 F. Supp. 2d 1050, 1057 (S.D. Cal. 1999); *James v. Maguire Correctional Facility*,

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1 2012 WL 3939343, at *4 (N.D. Cal. 2012) (unpublished); *Garcia v. Clark*, 2012
2 WL 1232315, at *11 (E.D. Cal. 2012).

3 Subject to the foregoing specific and general objections, Allergan responds as
4 follows: This Request improperly calls for a legal conclusion and is premised on an
5 incomplete hypothetical, and Allergan is therefore unable to respond to this Request.

6
7 Dated: February 17, 2015
8

9 FISH & RICHARDSON P.C.
10

11 By: /s/ Elizabeth M. Flanagan
12 Elizabeth M. Flanagan

13 Attorneys for Plaintiffs
14 ALLERGAN USA, INC. AND
15 ALLERGAN INDUSTRIE, SAS
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PROOF OF SERVICE

I am employed in the County of New Castle, my business address is Fish & Richardson P.C., 222 Delaware Avenue, 17th Floor, Wilmington, Delaware. I am over the age of 18 and not a party to the foregoing action.

On February 17, 2015, I caused a copy of the following document(s):

**PLAINTIFFS' RESPONSES AND OBJECTIONS TO DEFENDANTS'
FIRST SET OF REQUESTS FOR ADMISSION TO PLAINTIFFS
ALLERGAN USA, INC. AND ALLERGAN INUDSTRIE, SAS (NUMBERS
1-11)**

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**GALDERMA
LABORATORIES, L.P.**

ELECTRONIC MAIL: Such document was transmitted by electronic mail to the addressees' email addresses as stated above.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

I declare under penalty of perjury that the above is true and correct. Executed
on February 17, 2015, at Wilmington, DE.

/s/ Elizabeth M. Flanagan
Elizabeth M. Flanagan